VERMONT MEDICAL SOCIETY RESOLUTION – PROPOSED

Adequate Workers’ Compensation Fee Schedule

WHEREAS, Vermont Statute authorizes the Commissioner of the Department of Labor to set a fee schedule for medical, surgical, hospital and other services provided to injured employees covered by Workers’ Compensation;¹

WHEREAS, The Statute also states that “The reimbursement rate for services and supplies in the fee schedule shall include consideration of medical necessity, clinical efficacy, cost-effectiveness, and safety, and those services and supplies shall be provided on a nondiscriminatory basis consistent with workers' compensation and health care law;”²

WHEREAS, Vermont’s Workers’ Compensation Fee Schedule set by rule has not been updated since 2006;³

WHEREAS, Vermont practices have reported physician payments for evaluation and management services under this fee schedule falling well below current commercial rates, for example as low as 40% of one commercial payer’s rate for CPT Code 99205;

WHEREAS, Physician payments in Vermont for evaluation and management services provided as of 2018 were, on average, 110% of Medicare-scheduled reimbursement amounts, compared to 139% in the region and 142% countrywide; payments for these services comprise 22% of physician payments, compared to 20% in the region and 23% countrywide;⁴

WHEREAS, An analysis of physician offices in the Los Angeles metropolitan area showed that the hourly practice expense for offices accepting workers' compensation patients was 2.5 to 3 times higher than the Medicare practice expense rate;⁵

WHEREAS, The results from a national study demonstrate that specialist workers’ compensation participation after the adoption of a fee schedule set at a low percent of Medicare (defined as anything at or below 125% of the Medicare RBRVS fee values) was strikingly less than for lower-paying alternatives such as Medicare and Medicaid; this appears largely due to additional administrative and regulatory burdens associated with workers’ compensation that are not sufficiently compensated by low fee schedules;⁶ therefore be it

¹ 21 V.S.A. § 640 (d))
² Id.
³ https://labor.vermont.gov/rule-40-%E2%80%93-vermont%E2%80%99s-medical-fee-schedule
⁴ NCCI Medical Data Report for the State of Vermont, October 2019
⁵ Workers’ Compensation Medical fee Schedules: New Findings and Implications for California, available at https://www.aaos.org/contentassets/2267c39b70e04a90a622e9ce73fc8531/ca-workers-comp-study.pdf
⁶ Id.
RESOLVED, that the Vermont Medical Society will advocate to the Vermont Department of Labor and, if necessary, the Vermont Legislature to update Vermont’s Workers’ Compensation Medical Fee Schedule in order to adequately reimburse for services provided and to reflect average commercial payments, and to implement a process for routine updates to the Fee Schedule in the future.